

COMMISSIONERS PROCEEDINGS  
JANUARY 13, 2004  
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Morris, Stanton, and Pridemore, Chair, present.

PRESENTATION

*Pete DuBois*, Department of Public Works, commented on the Leadership in Energy & Environmental Design Award and noted that PGE Green Building Services helped in pushing the project through. DuBois thanked the commissioners for their support.

*Richard Manning*, Green Building Services, presented the plaque to the commissioners.

*Pridemore* thanked staff for their work and added that the Commissioners were very proud of the building.

PROCLAMATION

Commissioner Pridemore read a proclamation declaring the month of January 2004 as National Mentoring Month. Kathy Hackney, Mentor Coordinator, Vancouver Housing Authority's Stars Mentoring Program, accepted the proclamation.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

ELECTION OF THE CHAIR OF THE BOARD OF COMMISSIONERS

**MOVED** by Stanton to elect Betty Sue Morris as Chair of the Board of County Commissioners for 2004. Commissioners Pridemore and Stanton voted aye. Motion carried. (See Tape 69)

**MOVED** by Pridemore to elect Judie Stanton as Vice-Chair of the Board of County Commissioners for 2004. Commissioners Pridemore and Morris voted aye. Motion carried. (See Tape 69)

BID AWARD 2354

Reconvened a public hearing for Bid Award 2354 – Annual Janitorial Supplies. Mike Westerman, General Services, stated that Purchasing and the Jail Work Center would request that award of Bid 2354 be delayed for one week, as they are still in the process of completing

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product testing. There being no public comment, **MOVED** by Pridemore to continue award of Bid 2354 to January 20, 2004 at 10 a.m. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 69)

PUBLIC COMMENT

*Michael Kepcha*, 39215 NE 28<sup>th</sup> Street, Washougal, thanked the county for doing a good job of clearing snow from the roads where he lives.

CONSENT AGENDA

*Morris* stated that she had a question regarding the January 13 agenda, item one – authorization to extend Position ESA 800. She said she wanted to make sure that the position would still be able to do some ESA work. She asked if the intent was for the position to only do other things, as Public Works was funding half of it.

*Pete Capell*, Director of Public Works, clarified that the position would become a Public Works funded position, but half of it would be reimbursed by the Health Department for some public information/public involvement support for the Health Department. He said the primary Public Works function would be in Water Resources, which is co-locating with the ESA Department and very closely related to ESA. Capell clarified that the position would be providing ESA support as well.

*Pridemore* referenced item 10 of the January 6 agenda, which was a private donation of \$35,000 to help fund the Guardianship Program. He suggested that a special thank-you letter would be appropriate.

There being no public comment, **MOVED** by Stanton to approve items 1 through 19 of the January 6 agenda, and items 1 through 8 of the January 13 agenda. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 69)

PUBLIC MEETING: CUP 2002-00001 WASHOUGAL MOTOCROSS

To consider appeals of the Clark County Hearing Examiner's decision regarding an application for a conditional use permit for the Washougal Motocross and related uses north of NE Borin Road and west of NE 412<sup>th</sup> Avenue.

Commissioner Morris announced that both the Washougal Motocross and Livingston Mountain Quarry Appeal hearings were going to be continued to January 20, 2004.

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*Morris* said that as far as the Washougal Motocross, there was a request that the Board entertain oral argument. She pointed out that they have not done that before. She asked Rich Lowry of the Prosecuting Attorney's office for his input as to why they would consider oral argument this time when they haven't done so in the past.

*Rich Lowry*, Prosecuting Attorney's Office, responded that the issues in the appeal almost entirely focus on noise questions that the Board has not specifically dealt with before, primarily because they are dealing with a noise exemption – the exemption for race tracks. He said the examiner, although found the exemption to apply, had to then decide whether noise was significantly detrimental under the conditional use standard. There are a lot of arguments that have been made on both sides. Lowry said that one of the awkward ways that their process works is that a lot of those arguments come out un-rebutted, i.e. they are made, but they don't have sequential briefings so there isn't really an opportunity to respond. He said that because they are dealing with significant briefing and original issues, he felt it would be appropriate in this case to allow brief oral argument up to 15 minutes. He said there are three appeals from opponents and that the board could simply request that the opponents decide how they want to divide up their time, if it's decided to allow the oral argument.

*Stanton* asked how it would work since he's saying they won't have the opportunity for rebuttal. Do they literally have only 15 minutes from each side or would they end up going back and giving the first speaker an opportunity to rebut?

*Lowry* said the traditional way that oral argument works is that a party can reserve some portion of their time for rebuttal. He said that in this case, you've got appeals on both sides so it's possible that both parties would want to do that.

*Stanton* clarified that they would just set a total time for each side.

*Pridemore* said it seemed that every possible argument that could be made was already contained in the record. He asked what could come out in oral argument that wasn't already present in the record.

*Lowry* said he anticipated that there would be more of an opportunity to respond to the arguments that were made in the briefs to the Board.

*Morris* said it seemed to her that it is a conditional use permit. She said the noise issues are pretty well defined in fact. Morris said it almost appears to be an issue of simple judgment on the board's part rather than of law, or interpretation of law. She said the hearings examiner laments that he has no specificity to work with in the conditional use permit process. If they are going to get specificity, this is not the place to do it. The place to do it would be in a legislative format where they could chew over the issues without the constraints that they have here.

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Morris said the last time they had this issue before them, they had sent it back to the hearings examiner asking that he make some findings of fact. She said there is also the issue of what happens if the conditional use permit is not granted. She said her recollection was that it would simply become a non-conforming use.

Lowry agreed and said that was the position of the owner. However, the issue of the breadth of the exemption – whether the exemption can only apply to those types of races that have historically existed on the property, or apply to new types of racing events – would remain regardless of whether they're operating as a conditional use or a non-conforming use.

Morris asked what the ramifications would be if the conditional use permit was denied.

Lowry replied that there have been several historic examiner decisions that have dealt with the scope of non-conforming rights. For example, the camping was not found to be a non-conforming right and so a separate conditional use permit was obtained for that. Lowry said that was an issue that the hearings examiner does not address in this decision because when it was remanded to him, the board had directed that the CU should be granted or denied based upon impacts, not non-conforming rights. He said he thought they would continue to struggle with what the magnitude of non-conforming rights are and they would still have to deal with the issue, the extent to which the noise exemption applies to this activity.

Stanton indicated that she had not yet finished reading the record. She said her inclination was to go ahead and have oral argument for a limited time – perhaps 15 minutes total per side.

Pridemore said he was a bit hesitant about going down that road. He said he had read through the record and was skeptical that there would be an argument raised that wasn't already contained within the record.

Morris agreed with Commissioner Pridemore in that she didn't think they would be hearing any new information.

Pridemore reiterated that he didn't see the value in additional oral argument.

**MOVED** by Pridemore to continue the public meeting regarding Washougal Motocross to January 20, 2004, 10:00 a.m., in the Public Service Center's 6<sup>th</sup> Floor Hearing Room. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 69)

PUBLIC MEETING: LIVINGSTON MOUNTAIN QUARRY

To consider an appeal of the Clark County Hearing Examiner's decision in the matter of an appeal of a Type II staff decision approving a site plan and a SEPA Mitigated Determination of

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appeal of a Type II staff decision approving a site plan and a SEPA Mitigated Determination of Non-significance to mine within a 40-acre site in the FR-80 zone with a Surface Mining Overlay.

*Morris* again announced that it was the intent of the board to continue the meeting to the following week.

**MOVED** by Stanton to continue the public meeting for Livingston Mountain Quarry to January 20, 2004, 10:00 a.m., in the Public Service Center's 6<sup>th</sup> Floor Hearing Room. Commissioners *Morris*, *Stanton*, and *Pridemore* voted aye. Motion carried. (See Tape 69)

PUBLIC HEARING: ALARM ORDINANCE

Held a public hearing to consider the adoption of an ordinance relating to the regulation of private emergency alarm systems and companies under Chapter 5.60 Clark County Code (CCC) and amending several sections of Ordinance 1994-11-42 codified as Chapter 5.60 CCC that pertain to the cost recovery associated with monitoring the alarm program and responding to false alarms, the civil penalties imposed for false alarms, and allowing for the suspension of alarm response and providing for an effective date.

*Tony Barnes* and *Darin Rouhier*, Sheriff's Office, were present for discussion.

*Tony Barnes* stated that they were requesting a change to the current alarm ordinance so that it would mirror that of the City of Vancouver. Commander Barnes highlighted the major changes. He stated that at the present time there is no cost for an alarm registration. He said they are requesting an annual registration fee of \$20 per alarm in order to offset the cost of monitoring the program and responding to alarms. Secondly, in regards to a false alarm penalty, under the current ordinance no penalty is levied against a person who has false alarms until the third false alarm, at which time the penalty is only \$25. Any subsequent false alarm is raised to \$50. He explained that under the proposed ordinance change, the first false alarm would be \$50 and that could possibly be waived if an alarm owner submits a letter stating that they've taken corrective action. He added that a second false alarm would increase to \$100; third false alarm to \$150; fourth to \$200; fifth to \$250; and the sixth would increase to \$300 plus an order of disconnect. Barnes said the proposal also required that alarm monitoring companies verify an alarm before they call the dispatch center or request that law enforcement respond.

*Pridemore* clarified that they weren't making the changes in order to mirror the City of Vancouver, but instead were trying to address the problem of numerous false alarms.

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*Barnes* stated that the average yearly count for false alarms is currently between 96%-98% of alarm calls received. He said the idea behind the ordinance is to reduce those so that deputies can be more productive in other areas.

*Morris* asked if they could talk a bit about the notification process. She asked what they are doing to let people who own alarms know that from here on out it is going to cost them money if they have false alarms.

*Barnes* said the proposal that the Sheriff's office is taking towards enforcement is a 90-day grace period from the implementation of the ordinance, in which case they would be doing a media campaign. Additionally, they were attempting to contact the alarm monitoring companies to request adding a mailer to the monthly statements they send to customers. He said they have also contacted a number of the retailers that sell home alarm kits and those retailers are allowing them to put informational brochures in their stores so that purchasers will see that they need to register the alarms, even if it isn't monitored. Commander Barnes added that they have been working with the Department of Community Development so that people who come in for building or remodel permits will be provided with information about registering their alarm systems.

*Stanton* asked about the consistency of requirements for the alarm companies and if they were similar to those of the City of Vancouver.

*Barnes* replied that it's consistent with the city's process so that regardless of where you reside in the county or the City of Vancouver, it's the same standard.

*Stanton* referred to the alarm registration fee where the staff report reads "except age 62+ and economically disadvantaged, as defined..." She said she didn't see a reference to that in the ordinance. She asked for further clarification.

*Rouhier* said he believed that the intent of the ordinance was to provide some latitude to make those kinds of exemptions in cases that were predefined, and the intent of the staff report was to show that one of those instances would be 62 or older.

*Stanton* said she didn't understand how it would work. She asked if the intent is to provide an opportunity for those who are 62 or older to not have to pay the registration fee.

*Barnes* said his understanding is that those persons who are 62 or older, or economically disadvantaged, would not be required to pay the \$20 registration fee.

*Bill Barron*, County Administrator, said that the ordinance would clearly need to be amended.

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*Stanton* said she didn't understand the rationale for age 62.

*Pridemore* said he saw "economically disadvantaged" as being the issue more so than the age.

*Stanton* asked if it only pertained to the registration fee.

*Barnes* said yes.

*Morris* asked if the Board was happy with the language in the ordinance. If not, they could amend it. She said as far as the staff report, they could strike out the "62".

*Stanton* said she understood that they needed another half-time person in the finance department in the Sheriff's office for administration of this. She asked if they had a plan for ramping up since they weren't going to have the \$20 per alarm on day one.

*Rouhier* said the staff position was not on board and they were postponing that until final approval of the ordinance. He said there is also a ramp-in period whereby the ordinance, in terms of the fees, would not become effective until April 15, 2004.

There was no public testimony.

*Stanton* said that part of the recommendation coming from the Sheriff's Office was that they use some of the funding to add a deputy and that some of the revenue from the fee and penalties be used for that purpose. However, the call volume should be going down. She said that because they aren't certain at this time about the amount of revenue they were going to collect, she was hesitant about approving the additional deputy position.

*Pridemore* asked for clarification that this action today wouldn't add the deputy, but would add the .5 Accounting Specialist.

*Rouhier* said his understanding was that this hearing was to address the alarm ordinance only and that the staff report would come through consent agenda as a follow-up.

*Barron* noted that the staff report approves both positions.

*Pridemore* asked if they had any information from the City of Vancouver since passing their alarm ordinance – what impact it has had?

*Barnes* said the City of Vancouver's ordinance has been in effect for a year and they have been collecting the fee and penalties, however, they are still holding at approximately 96% false alarms.

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There was further discussion.

*Pridemore* questioned if their motivation in doing this was to decrease the percentage of false alarms – and it doesn't seem to do that. He said that maybe what they are doing is passing on a user fee to pay for a deputy to respond to calls. He said it's just a different motivation than the way he's been approaching it, which is the assumption that they would be reducing false alarms.

*Stanton* agreed. She said her assumption was that they would accomplish what it says in the beginning of the ordinance, which is – “The intention is to further reduce the frequency of false alarms.” She said if they are not convinced it's going to do that, she didn't want to pass on a new cost to alarm owners.

*Barnes* explained that the idea behind the penalty was that it would be a factor in decreasing the number of false alarms. Currently, there is no penalty for the first two alarms, so there is no incentive for learning how to correctly use an alarm and the majority of false alarms they respond to are due to user error.

*Pridemore* reiterated that it changes the motivation. If they're not going to reduce, then he could make the other argument, which is that they need a user fee to fund a deputy to respond to those calls. He said he could understand and support that argument. He said if the expectation is that they are going to reduce the number of calls, he couldn't see adding a deputy to respond to calls that they would no longer be getting. However, that's not what he's hearing.

*Morris* said she was more than happy to adopt the ordinance before them. She said the staff report includes items that are not in the language of the ordinance in front of them. She said if they need to make a motion that segregates the staff report from the ordinance that would be fine. She said in terms of fee-for-service and level of service, she wouldn't mind increasing the level of service. She asked Rich Lowry, Prosecuting Attorney's Office, what they would be legally binding themselves to with a staff report as opposed to an ordinance.

*Rich Lowry*, Prosecuting Attorney's Office, said they are not bound by the staff report at all. He said they could separate the personnel issue from the ordinance issue.

*Pridemore* said the personnel issue was obviously a different one, but it would be good to stay with the intent of what they are trying to accomplish with the ordinance if what they are trying to do is fund the response necessary to support the alarms. He said he supports the ordinance as proposed.

*Stanton* said she could support it also, but she did have concerns because if the intent wasn't really to try and reduce the number of false alarms it is connected to the additional deputy



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position. She said she also had a concern that by bumping up the penalties, people may choose not to set their alarms for fear that they'll create a false alarm for which they can't afford to pay the penalty.

*Morris* asked if anyone wanted to amend the language to say that the intent is to cover the cost of deputy response to false alarms.

*Pridemore* said he didn't think it was necessary at this point, but was something that would affect how he thinks about whether they add the deputy or not. He said he would like to hear more about what's coming out of the City of Vancouver in terms of changes that have resulted from revising their alarm ordinance.

*Morris* asked how much money the City of Vancouver is bringing in and what they have funded with that money.

*Barnes* said he could find out.

*Stanton* said she wants to know that they do intend to reduce the number of false alarm calls with this ordinance.

*Barnes* said that is the intent of the Sheriff's Office.

**MOVED** by Pridemore to approve Ordinance 2004-01-03. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 69)

PUBLIC HEARING: LIBRARY CAPITAL FACILITY AREA AND BONDS

Held a public hearing to consider approving a resolution to place on the ballot a proposal sponsored by the Fort Vancouver Regional Library to create a new library capital facility area and issue bonds.

*David DiCesare*, Vancouver Building Project Planner, Fort Vancouver Regional Library, presented. Mr. DiCesare said that they are seeking approval by the county to place before voters two propositions that would authorize the creation of a library capital facility area, which is a sub area within Fort Vancouver Library District's tri-county service boundaries, and, if successful, issue bonds to finance construction of three projects within that area. He said those projects would include a remodel and expansion of the main library located at Mill Plain and Fort Vancouver Way; replacement of the existing Cascade Park Library; and a consolidated processing facility located within the boundaries to allow for the district's processing operations to occur there, and vacate current leased space, as well as space that's occupying the main

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library. DiCesare said the cost of the bond to voters within the boundary would be \$48 million and it's estimated that the impact to property owners would be 17 cents per thousand.

*Patty Duitman*, Fort Vancouver Regional Library, said that this particular LCFA would significantly mirror the current Three Creeks LCFA as far as the relationship Fort Vancouver Regional Library has with the LCFA Board, which would again be made up of the Board of County Commissioners. Ms. Duitman said that many of the issues they dealt with...the Three Creeks LCFA in the interlocal agreement would continue to be mirrored and addressed in an agreement with the Greater Vancouver LCFA and the Fort Vancouver Regional Library District.

*Bill Barron*, County Administrator, noted that there was an error in the staff report to item 2 where it reads – “Replace the existing 25,000 sq.-ft. library...” He said it should be “2,500 sq.-ft.” In addition, he said he would have the signature blocks corrected.

*Stanton* asked if the resolution would be putting two things on the ballot – first, to form the LCFA and, secondly, to approve the bond.

*DiCesare* said that was correct. He said the vote would be confined to those people who live within the boundary. He further explained that it was a two-step process and the vote might well result in authorization to approve the LCFA and not to issue the bonds, so both need to pass in order to be successful and for anything to actually occur.

*Stanton* referenced Orchards Park whereby a vote was made to create the district to fund the improvements, but then no funding was ever approved. She said if the first proposition were to pass, would they have to form as a board that does nothing.

*Duitman* responded that the Battle Ground LCFA was, in fact, formed. The bond measure did not pass the first time and went out a second time. She said there are legal constraints in that there does need to be funding within 18 months and that two elections can be held, which is what they did in Battle Ground.

There being no public comment, **MOVED** by Pridemore to approve Resolution 2004-01-04. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 69)

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*The Board of County Commissioners' adjourned and convened as the Board of Health.*

PUBLIC COMMENT

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There was no public comment.

CONSENT AGENDA

There being no public comment, **MOVED** by Stanton to approve consent agenda items 1 through 3. Members Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 69)

*Adjourned*

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BOARD OF COUNTY COMMISSIONERS

Betty Sue Morris/s/  
Betty Sue Morris, Chair

Judie Stanton/s/  
Judie Stanton, Commissioner

Craig A. Pridemore, Commissioner

ATTEST:

Louise Richards/s/  
Clerk of the Board

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